IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 1812 of 2004

STATE &ANR
V/S
M/S DEVKINANDAN

Mr. SHYAM LADRECHA, Addl.GA, for the appellant / petitioner

Date of Order : 17.3.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

The only submission made is that in this case, there was no contract entered into between the parties as required by Article 299 of the Constitution of India, and as such, no arbitrator could be appointed, no reference could be made, and no award could be made.

I have considered the submission, and have gone through the impugned award, and the impugned order.

The learned trial Court has noticed that the arbitrator was appointed vide order dated 19.4.97 by the Court, and that was appointed with the consent of the parties, rather on the application of the defendant No.2, and at that time, this question about existence of the contract under Article 299 was gone into. That order has not been challenged anywhere so far. Learned counsel was asked to show the tender form, and other correspondence, to satisfy the conscience of the Court, as to whether any contract was entered into under Article 299 or not. But then the learned counsel has not been able to show anything in his favour, obviously, nothing appears to have been shown even before the learned trial Court as well. In that view of the matter, when the tender was issued in the name of the Governor, as noticed by the arbitrator, the contractor submitted the tender, which was accepted, which acceptance was communicated to the contractor, and the contractor had been asked to commence the work, in my view, on the face of the order dated 19.4.97, appointing arbitrator by consent, this question cannot be allowed to be reagitated in these proceedings at this stage.

No other point was argued.

The appeal thus has no force, and is dismissed summarily.

(N P GUPTA),J.

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